

(DRAFT) MINUTES (DRAFT)

Citizen Review Board Meeting
Old City Hall, 510 Greene Street
Monday, January 25, 2010
6:00 p.m.

1. MEETING CALLED TO ORDER AT 6:00 P.M.

2. ROLL CALL

BOARD MEMBERSHIP/AGENTS PRESENT:

Bryan Green
Virginia Altobello
Mark Kielsgard
Susan Srch
Trice Denny
Hayward Magby
Robert Cintron, Attorney for the Board
Stephen Muffler, Executive Director of the Board
Chief Donie Lee
Inspector Randy Smith-KWPD/IA

+Mike Driscoll attempted to phone in several times but due to the city phone line difficulties prevented his attendance

ADDITIONAL ATTENDEES:

Adam Linhardt
Mark Howell
Shahdaroba Rodd
(others in attendance did not sign in)

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF MINUTES:

a. December 14, 2009

Motion made by Virginia Altobello & seconded by Trice Denny to approve the Minutes of December 14, 2009 as drafted.

Vote: Passed by Consent without any objections

5. TRACKING CHART REVIEW

Board members reviewed the CRB tracking chart and there were no questions/concerns. Chairman Green questioned the status of CRB Case #09-008. Executive Director Muffler explained that the KWPD is meeting with complainant and a 2nd meeting will occur shortly, then it will go to the CRB most likely at the February 22, 2010 CRB meeting.

6. CONTINUED OR NEW BUSINESS

a. **Rodd CRB Case No. #09-009**

Mr. Rodd addressed the Board directly and was asked if there are any pending charges related to this case and he explained that the traffic infraction of “failure to have a white light on his bike” was still pending. Mark Kielsgard felt that the Board should defer this file until that final charge is resolved in court, instead of taking these charges piecemeal. Attorney Cintron pointed out that there would be an advantage to defer the matter until the traffic court addresses the matter because there would be a transcript if Mr. Rodd has a court reporter present at his next traffic hearing if Mr. Rodd pays a court reporter to do so. Mr. Rodd did not object to the deferment of his complaint at this time.

Motion by Mark Kielsgard to defer the matter until the charges are addressed and seconded by Susan Srch

Passes Unanimously.

b. **CRB Annual Report Approval Discussion**

The Board approved the contents of the Annual Report as drafted but wanted to address the proposed recommendations one by one. The Board agreed with recommendations 1, 2, 5, 7, 8 & 9. The Board felt that recommendation #3 (IA should be non-union members and an IG heading up the IA department) in principal was fine but the detailed implementation of the recommendation was not unanimously agreed upon and thus the recommendation would have to be partially deleted with the remainder intact. Recommendations #4 (taser footage review), & #6 (CRB be invited to city/union contractual negotiations) & #10 (KWPD reevaluate how long it keeps non-disciplinary corrective actions in the officer’s files) were removed by the Board.

Mark Kielsgard proffered an additional recommendation that the KWPD should improve the training and execution of the “fellow officer rule” in the field to avoid conflicting police reports and incident reports.

Motion by Mark Kielsgard and Seconded by Susan Srch to have the Executive Director draft a general recommendation regarding the “fellow officer rule” training and improved implementation by the KWPD

Passes Unanimously.

7. COUNSEL’S REPORT

Attorney Cintron reported to the Board concerning the current Omar Brown CRB litigation and informed the board of the upcoming Summary Judgment hearing. Attorney Cintron explained that there was a change in circumstances in that the Sgt. Pablo Rodriguez, recently answered under oath a series of questions in a suppression hearing in the State vs. Omar Brown criminal case and those answers were now available for the CRB to review. Further, after hearing such testimony in that criminal case hearing, Judge Audlin issued a ruling that the subject statement which is the subject of the CRB investigation and in question “*does not necessarily demonstrate either an affirmative deception or a reckless statement to the Court*”. Thus Attorney Cintron suggested to the Board that the necessity of the outstanding subpoena had now faded and that he recommended the subpoena be withdrawn.

The Board discussed the procedure for such a subpoena withdrawal and the effects it would have on the pending file review, future files and current litigation. Attorney Cintron felt that this would probably end the current litigation unless the Union attorneys wanted to advance some of their arguments about subpoena powers and the lawful existence of the CRB as a whole to the court. Attorney Cintron felt that the city was not exposed to any attorneys fees claims as this was not a frivolous action.

Virginia Altobello Moved to withdrawal the subpoena and the motion was Seconded by Susan Srch

No. Hayward Magby; Trice Denny

Yes. Bryan Green, Virginia Altobello, Mark Kielsgard, Susan Srch

PASSES

8. CHAIRMAN’S REPORT

None

9. BOARD MEMBERS REPORT/GENERAL COMMENTS

None

10. EXECUTIVE DIRECTOR'S REPORT

- a. Executive Director Muffler explained to the Board various public relations efforts on behalf of the CRB that have been conducted over the past 2 months.
- b. Executive Director Muffler reported to the Board the interface he had with the Miami Civilian Investigative Panel and their resolution to their South Florida Delegation to resist any further amendments to Chapter 112 of the Florida Statutes (if any are being contemplated in the 2010 legislative session) to eliminate outside civilian review boards with independent investigative and subpoena powers like the ones in Miami and Key West.

11. PSO/IA COMMENTS/FOLLOW-UP

None

12. PUBLIC INPUT

None

13. MEDIA AND PRESS QUESTIONS

None.

14. ADJOURNMENT

Adjourned at 8:10 p.m.

Respectfully Submitted

Stephen C. Muffler, Esquire
Executive Director